

Bill No. SB 352

Barcode 090406

CHAMBER ACTION

Senate

House

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The Committee on Banking and Insurance (Posey) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 817.545, Florida Statutes, is created to read:

817.545 Real property fraud.--

(1) This section may be cited as the "Florida Real Property Fraud Act."

(2) The Legislature finds and declares that fraud involving real property is at an all-time high in the United States and in this state. Mortgage lending institutions and borrowers have suffered hundreds of millions of dollars in losses due to real property fraud. The Legislature therefore concludes that for the protection of the public, and particularly for the protection of borrowers, homeowners, lending institutions, and the integrity of the mortgage lending process, real property fraud should be made unlawful

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1 and subject to the provisions of chapter 895.

2 (3) A person commits the offense of real property
3 fraud if, with the intent to defraud, the person knowingly:

4 (a) Makes any material misstatement,
5 misrepresentation, or omission during the mortgage lending
6 process with the intention that the misstatement,
7 misrepresentation, or omission will be relied on by a mortgage
8 lender, borrower, or any other party to the real property
9 transaction process; however, a material omission does not
10 occur when such omission is made as part of a lending program
11 in which income, assets, or employment determination are not
12 factors for qualification for the loan program.

13 (b) Uses or facilitates the use of any material
14 misstatement, misrepresentation, or omission, knowing the
15 misstatement, misrepresentation, or omission contains a
16 misstatement, misrepresentation, or omission, during the
17 mortgage lending process with the intention that the material
18 misstatement, misrepresentation, or omission will be relied on
19 by a mortgage lender, borrower, or any other party to the real
20 property transaction process; however, a material omission
21 does not occur when such omission is made as part of a lending
22 program in which income, assets, or employment determination
23 are not factors for qualification for the loan program.

24 (c) Receives any proceeds or any other funds in
25 connection with a real property transaction that the person
26 knew resulted from a violation of paragraph (a) or paragraph
27 (b).

28 (e) Files or causes to be filed with the clerk of the
29 circuit court for any county of this state a document
30 materially relating to a real property transaction which
31 contains a material misstatement, misrepresentation, or

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1 omission.

2 (4) An offense of real property fraud shall not be
3 predicated solely upon information lawfully disclosed under
4 federal disclosure laws, regulations, or interpretations
5 related to the mortgage lending process.

6 (5) For the purpose of venue under this section, any
7 violation of this section shall be considered to have been
8 committed:

9 (a) In the county in which the real property is
10 located; or

11 (b) In any county in which a material act was
12 performed in furtherance of the violation.

13 (6) Any person who violates subsection (3) commits a
14 felony of the third degree, punishable as provided in s.
15 775.082, s. 775.083, or s. 775.084.

16 Section 2. This act shall take effect October 1, 2007.

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19 ===== T I T L E A M E N D M E N T =====

20 And the title is amended as follows:

21 Delete everything before the enacting clause

22

23 and insert:

24 A bill to be entitled
25 An act relating to real property fraud;
26 creating s. 817.545, F.S.; providing a short
27 title; providing legislative findings and
28 declarations; specifying criteria for
29 committing the offense of real property fraud;
30 providing that such offense is a third-degree
31 felony; providing for venue with respect to the

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1 committed offense; providing penalties;
2 providing an effective date.
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